

Minutes of the Tobacco Education and Research Oversight Committee (TEROC)

Meeting on June 1, 2004
California Department of Health Services
Training Rooms B and C (First Floor)
1500 Capitol Avenue
Sacramento, CA 95814

MEMBERS PRESENT:

Bruce Allen, Theresa Boschert, Alan Henderson, Susanne Hildebrand-Zanki, Kirk Kleinschmidt
Dorothy Rice, Deborah Sanchez, and Traci Verardo

MEMBERS ABSENT:

Ron Arias, Stella Aguinaga Bialous, Lourdes Baézconde-Garbanati, Gregory Franklin, and Rod Lew

OTHERS IN ATTENDANCE:

Dileep G. Bal, Chief, Cancer Control Branch, Department of Health Services (DHS)
Kimberly Bankston-Lee, African American Tobacco Education Network
Roxanna Bautista, Asian and Pacific Islander Tobacco Education Network (APITEN)
Shelly Brantley, American Lung Association of California, Superior Branch (ALA)
Vic Day, Board of Equalization (BOE)
Larry Gruder, Tobacco Related Disease Research Program (TRDRP), University of California (UC)
Stephen L. Hansen, California Medical Association
Rich Heintz, Local Lead Agencies Project Directors Association (LLA-PDA)
Kathony Jerauld, Data Analysis and Evaluation Unit (DAEU), Tobacco Control Section (TCS), DHS
Paul Knepprath, ALA
John Lagomarsino, Safe and Healthy Kids Program Office (SHKPO), California Department of
Education (CDE)
Roberta Lawson, Local Programs Unit (LPU), TCS, DHS
Laurie Limas, El Dorado County Public Health Department, LLA-PDA
Natasha McLear-Botev, DAEU, TCS, DHS
Carolyn Martin, Consultant, Bar and Restaurant Employees Against Tobacco Hazards, ALA,
Jack Miller, Del Norte County Local Lead Agency, LLA-PDA
Jamie Morgan, American Heart Association
Sharen Muraoka, American Cancer Society (ACS)
Greg Oliva, Chief, Program Planning and Policy Development, TCS, DHS
Karen Olsen, LLA-PDA
Cathy Palmer, Chief, Administrative and Contract Support Unit, TCS, DHS
Sue Paris, Mariposa County, LLA-PDA
April Roeseler, Chief, LPU, DAEU, TCS, DHS
Meredith Rolfe, Administrator, SHKPO, CDE
Bill Ruppert, TCS, DHS
Robin Shimizu, Assistant Chief, TCS, DHS
Colleen Stevens, Chief, Media Campaign Unit, TCS, DHS
Statice Wilmore, City of Pasadena, LLA-PDA

1. WELCOME, INTRODUCTIONS, AND OPENING COMMENTS

The Chairperson, Kirk Kleinschmidt, called the meeting to order at 10:00 a.m. Each of the Committee members introduced themselves. Members of the audience also introduced themselves and identified their affiliations.

2. APPROVAL OF MINUTES, REVIEW OF CORRESPONDENCE, AND ANNOUNCEMENTS

The minutes for the April 12, 2004, TEROC meeting were approved as written.

The Chairperson reviewed some of the outgoing correspondence in the packets and pointed out that the Committee had not received a response from the Department of Finance (DOF) regarding TEROC's request for an exemption for the Department of Health Services, Tobacco Control Section (DHS/TCS), to the contracting, purchasing, and hiring freeze.

3. ENVIRONMENTAL DEVELOPMENTS

The Chairperson passed out a sheet listing recent environmental developments (see enclosed) and commented on some items:

- Regarding the Framework Convention on Tobacco Control (FCTC) – The Secretary of the United States (U.S.) Department of Health and Human Services, Mr. Tommy Thompson, signed the FCTC. The Bush Administration still needs to send it to the Senate for ratification. Some commented that the signing by Secretary Thompson was only pro-forma so that the U.S. could attend the World Health Assembly without criticism. Neither the Bush Administration nor the Senate intends to ratify the FCTC. The Chairperson said the Committee should: 1) send a letter to the Bush Administration thanking them for signing the FCTC and request Senate ratification, and 2) send letters to Senators Feinstein and Boxer requesting their support for ratification. He also said the local coalitions should send similar letters to let the officials know of constituent support for FCTC ratification.
- Regarding the University of California (UC) Berkeley School of Public Health vote to reject tobacco industry funding for research – The Chairperson said TEROC should get the word out to all the UCs in support of action to reject any tobacco industry funding of research. Some commented that it is difficult to get this adopted system wide, that maybe letters should go to the UC Chancellor and the UC President, and that it may be more effective to work through the UC Academic Senate and Regents. It was agreed to send letters to the Academic Senate and the Regents of UC with copies to the UC Berkeley Chancellor and UC President.
- Regarding Congressional hearings on smoking in movies and constituent support for an R rating – The Chairperson asked what was going on in California in this regard. DHS said the surveillance of tobacco in the movies is continuing through the Tobacco Industry Monitoring Evaluation contract, and some Local Lead Agencies (LLA), including Los Angeles and Marin, are working on this. The Chairperson said that in New York the kids in schools are writing letters to the movie industry, and it would be appropriate for school kids here to do likewise. There was a comment that perhaps the Governor could be influential in this area with his contacts in the movie industry.

- Regarding the state Board of Equalization (BOE) requiring more Proposition (Prop) 99 money to implement new technology to replace tobacco tax stamps beginning January 1, 2005 – The Chairperson said he will request that a representative from BOE appear at the August 31, 2004, TEROC meeting to explain and justify the annual \$2.8 million appropriation increase in Prop 99 for BOE administrative costs.
- Regarding the California Performance Review of State Government organization – There are proposals to streamline or reform government, including the elimination of some advisory bodies, and it is unclear whether the earlier Little Hoover Commission proposal to split DHS into health delivery and public health is part of this plan. Governor Davis actively opposed the proposed split of DHS. A comment added that a Medi-Cal redesign is going on at this time; the California Tobacco Control Alliance is monitoring this and is looking for information from anyone or group that has knowledge in this area.

4. BUDGET UPDATE

The Chairperson announced that Mr. Joe Shinstock from DOF was scheduled to attend this meeting to report on how the May revision of the state budget affects Prop 99 funds, but pressing state budget work prevented him from coming to the meeting. The Chairperson said that he and representatives of the agencies had a phone conversation with Mr. Shinstock earlier in the day. He relayed that the May revision is similar to the January version with one notable exception; an additional \$1.4 million was allocated to the Health Education Account (HEA), and this was allocated to the various TCS programs as displayed on the chart “2004-05 Governor Budget” that was passed out at the beginning of the meeting (see copy enclosed). The Chairperson said he asked Mr. Shinstock whether this increase resulted from an increase in consumption, a change in projected revenues or from licensing fees, and Mr. Shinstock said he would provide an answer later. DHS showed figures demonstrating that tobacco consumption has not gone up. The Chairperson said that Mr. Shinstock is new to the Prop 99 world and he would be invited to participate in the August 31, 2004, TEROC meeting. He will be asked to address a number of questions, including an explanation of the Prop 99 reserve, and a justification of the additional Prop 99 funds designated for BOE administration.

The Chairperson asked DHS for detail on the use of the additional money. DHS said: the \$411,000 for Competitive Grants will be incorporated into the existing procurements and this will free up funds for the 2005-06 procurement; \$97,000 for evaluation and TEROC will likely be allocated into the new contracts that are currently in negotiations; the \$432,000 for LLAs will be reflected in a new LLA allocation chart that will be created when the budget is signed and then LLA contracts will be amended; and the media campaign will encumber the \$418,000 to free up that amount of 2005-06 funds. DHS said that they are cautious because there could be a mid-year funding cut in January 2005, so no drastic changes were made. The Chairperson and DHS discussed the fact that DOF had stated they wanted to maintain a five percent reserve for all Prop 99 accounts and that there is now a \$4.3 million reserve for the HEA which appears to be higher than reserves for other Prop 99 accounts. This is an issue to be explored and resolved with DOF.

A member of the audience stated that: the Administration had requested the multi-year spending authority language be deleted from the proposed budget language but the Senate Health and Human Services Committee rejected the Administration's request; that this will

be a conference committee item, and the committee is expected to decide in favor of maintaining a flexible multi-year spending authority for the HEA.

5. LEGISLATIVE UPDATE

Mr. Paul Knepprath from the American Lung Association (ALA) provided an update and handout concerning the status of the relevant tobacco-related legislative bills (see enclosed) and answered questions from the members and the audience. He noted that a number of tobacco-related bills died in the legislature this year. He said the tobacco industry, Philip Morris in particular, has been very active in lobbying anti-tobacco bills. Some new policy areas, such as smoking in autos, were not supported by traditional allies. He said ALA is putting most of its efforts towards the passage of Senate Bill (SB) 676, which would impose an annual fee on non-participating manufacturers to the Master Settlement Agreement (MSA). He commented on some specific bills:

- Assembly Bill (AB) 2997 -- restrictions on smoking in cars -- died on the Assembly floor, went farther than it was expected to, and will appear again in the future.
- AB 1808 -- prohibits tobacco littering on state beaches -- is getting a great deal of attention in southern California, may be expanded to include all beaches, and many cities already have similar policies in place.
- SB 1173 -- broadens the ban on self-service displays of cigarettes to include all tobacco products and tobacco paraphernalia -- passed the Senate with an exemption to cigar stores.
- AB 2443 -- strengthens enforcement of the Stop Tobacco Access to Kids Enforcement Act -- was defeated.
- AB 2694 -- prohibits general littering of tobacco products -- was defeated.
- SB 1821 -- increases the age to purchase/possess tobacco products to 21 -- was defeated.

6. PROJECT DIRECTORS ASSOCIATION PROPOSAL TO UPDATE THE LOCAL LEAD AGENCY FUNDING FORMULA

Mr. Jack Miller, representing LLA-Project Directors Association (PDA), presented a proposed change to the LLA funding formula (see enclosed copy of slides). He explained the development of PDA in 1997, the monthly teleconferences, the PDA education program to provide information to political decision makers, and the PDA task force that addresses LLA funding issues. He said the PDA has attained 501(c)(3) status and is exploring other sources for grants to provide additional funds for LLAs.

Mr. Miller stated that for more than three years LLAs have had problems or concerns with the current LLA funding formula as defined in the state Health and Safety Code, Section 104380, established in 1989. The current funding formula is based on outdated 1989 demographics, and several LLAs are significantly under-funded for their population size; some receive only the \$150,000 base amount. The PDA has seen the need for a more equitable funding formula. Mr. Miller said the PDA reviewed several alternatives to the current formula over a period of time, and these were narrowed to two alternatives: a) population-based (the base amount to all counties and the balance allocated according to the county's share of the state's population, and b) cost of smoking (the base amount and the balance allocated according to the county's proportional cost of smoking). The pros and cons of each alternative were discussed, and the PDA membership voted in favor of the

population-based approach which is also recommended by the Centers for Disease Control and Prevention and the National Association of Local Health Officials. Mr. Miller passed out spreadsheets showing the current funding formula and the proposed population-based formula (see enclosed).

Mr. Miller explained that the PDA was seeking TEROC feedback and support for a legislative change in the LLA funding formula. He said that this was the PDA's first step in the process to get their LLA funding formula proposal adopted into law, and that the PDA would write the legislative language, work with the constituent partners, and educate the members of the Legislature. He added that PDA would also provide grassroots support for a tobacco tax initiative.

TEROC members discussed the PDA's proposal and asked several questions:

- Has the PDA discussed adjusting the minimum base of \$150,000? Yes, the formula did go to \$75,000 once but it was found difficult to have any program at all with that level of funding. A member of the audience said that when the original legislation was written the current level was set as the minimum to have one full-time professional at the county level.
- What is the response of Los Angeles to the proposed formula? Los Angeles has been involved, concerned, and supportive of the process and voted against the proposed change in the formula.
- Has the PDA explored with the voluntary agencies the chances that a legislative change would pass, and the risks and obstacles to opening this matter up legislatively? No, they wanted TEROC feedback and involvement first.
- Has the PDA looked at CDE's proposed legislative changes in funding? The PDA is not aware that CDE was considering changing the funding formula to counties.
- What is DHS' position on the proposal? DHS said they have been aware of the funding inequity to some counties such as San Diego, Orange, and Contra Costa, have been working with the PDA, and have been providing them with the information they needed for their deliberations. A simple population-based formula has a lot of merit compared to the current formula.
- Does the proposed funding formula take into account the prevalence rates in specific counties? No, specific county prevalence figures are unavailable; however, any legislation should include a provision to review the formula periodically and add new areas for consideration if thought necessary.
- Has the PDA discussed having a minimum amount allocated to LLAs and use of a competitive process for the balance? The PDA did discuss this but did not study or cost out the workload issue nor did they discuss this with DHS.
- What would LLAs that receive more money do with the increase? Primary focus is on staffing to be able to carry out and expand their work plan.
- What is the PDA's timeline on this endeavor? They are now developing a plan and time frame for the different steps. The PDA has been asked to make presentations at the Health Officers Association of California, and the County Health Executives Association of California.

Ms. Statice Wilmore, LLA Director from Pasadena, said that her agency staff had gone from 2.5 to 1.8 full-time equivalent, that they run the risk of experienced staff having to split their time to other programs. She said that the program is at risk of losing its national and international pre-eminence, and that LLAs are the most cost-effective use of tobacco funds.

The Committee members expressed the need for more information and more discussion on the matter. Some said they wanted to see a comparison of the proposed formula with the severity of the problem in the counties. Some wanted to look at the benefits of the proposed change, the idea of competition for the money, and some built-in incentive for closer coordination at the local level of the county offices of education and the LLAs.

The Chairperson said this is the first time the Committee has seen this proposal in any detail and the Committee wishes to take the time to explore more thoroughly the specifics of the alternatives, and he invited PDA to meet with the Committee at the July special meeting. He advised PDA to proceed in meeting with the voluntary agencies and not wait for a TEROC decision.

7. PROGRAM REPORTS BY AGENCIES

(Each agency sends a written report to TEROC prior to the meeting and responds to questions at the meeting.)

a) Department of Health Services, Tobacco Control Section Report

DHS asked if there were any questions regarding its written report to TEROC. Committee members asked TCS several questions.

- Regarding the priority population Request for Application and contract for the Hispanic/Latino group, can TCS provide more specifics concerning the social norm change and policy focus goals? DHS said, given that Hispanic persons have greater exposure to secondhand smoke in some worksites such as hotel rooms and construction sites, this contractor will build on previous successful efforts to attain smoke-free environments in housing facilities and indoor and outdoor worksites; and they will be working with health care providers for cessation services.
- What is happening in the law enforcement training? The funding for law enforcement training ended with the loss of MSA funds, so the training was incorporated into the Center for Policy and Organizing contract.
- What is the status of the Evaluation Center freeze? All fund sources are frozen. DHS' requests for freeze exemptions were at DOF on or before May 17, 2004, and are still awaiting response and the contractors are contacting their legislators. In the phone conversation with DOF this morning, the Chairperson and the agencies discussed the urgency of getting the freeze lifted and DHS' action during this fiscal year (FY).
- Can TCS provide more information in how Communities of Excellence Priority Populations indicators are rated? This is a national review involving 150 tobacco control experts and advocates to rate the 91 indicators and assets. The findings from this assessment will be incorporated into the next procurement in the winter.
- Will the reports on the California Tobacco Survey and in-school surveys be sent to TEROC and can a summary of findings be provided at the August meeting? Yes.
- Are the ad contracts frozen? All 21 ads seen at the last meeting are moving forward and ready for production when approval is granted. They have been approved at the Agency level and TCS expects to hear word on them this week. The two press releases (World No Tobacco Day and the new prevalence figures) are at the Governor's Office for approval.

The Chairperson said that he was at the Court of Appeals hearing in May 2004 for the R.J. Reynolds case against the TCS media campaign and that it will be six to eight

months to receive the outcome. Attorney General Lockyer was at the hearing, which shows his interest in this issue. People may see the arguments for each side at: www.ca9.uscourts.gov (case number 03-16535). The hearing on the media subcontractors' lawsuit was postponed until June 29, 2004.

b) California Department of Education/Safe and Healthy Kids Program Office Report

CDE informed the Committee that the Tobacco Use Prevention Education (TUPE) reform package is still being reviewed at two levels above Safe and Healthy Kids Program Office (SHKPO) and they think that they will receive a response by June 2, 2004. The questions that have been asked concerning the reform package have been minor. The next step is for the reform package to go to CDE Legislative Office and SHKPO has been told that this is not a priority for this year. CDE said they would be getting comments from the voluntary agencies concerning proposed TUPE reform in order to help move this up the priority list. TEROC member Traci Verardo and SHKPO staff have a meeting scheduled with the Legislative Office. The Chairperson said CDE should keep the Committee informed on this matter.

In response to a question concerning the recent TUPE Competitive Grant awards, CDE referred the Committee to sheets within the meeting packets giving detailed information on the grants. CDE will provide DHS with an electronic copy of the sheets to be put on the TCS website, and will provide more information on the objectives of these grants at the next meeting. For an existing grant to continue or be repeated, the grantee must demonstrate what they have accomplished or learned.

c) University of California/Tobacco Related Disease and Research Program Report

The Tobacco Related Disease and Research Program (TRDRP) said Dr. Charles DiSogra will start as the new Director on August 1, 2004, and will attend the August 31, 2004 TEROC meeting.

In response to the budget cuts, TRDRP has held back approximately \$2.5 million from this year's budget for next year's research grants in order to balance the budget cut over two years. The program will conduct extensive and thorough planning this summer and by fall come up with ideas and a plan on how to proceed with approximately \$14 million instead of the previous \$30 million. The program will involve the major stakeholders, including TEROC, in the planning. They will revisit the primary and complementary research areas, review all previous input, and look at the TEROC Master Plan (MP). FY 2004-05 will look mostly the same as this year, but they expect to make major changes for FY 2005-06. They hope to retain a comprehensive program that includes participatory research and they expect the Community-Academic Research Awards and the School-Academic Research Awards will continue. They have been looking at how to prioritize, whether to have smaller grants, and whether to alternate priorities from year to year. There will be no Annual Investigators Meeting in 2004, but it will be back in 2005 for the 15th anniversary of TRDRP grant awards, perhaps a two-day meeting and perhaps the National Institutes of Health or other entities will provide support.

A Committee member referred to an article in the April 2004 edition of the TRDRP magazine *Burning Issues* regarding the California Cancer Registry taking 26.1 percent of the Research Account (RA) funds. There was a discussion to the effect that TRDRP is severely hampered because of the redirection of RA funds. Some members said: that

sending letters to the Governor and to DOF do not seem to have any effect, that there have been proposals for an additional tax on tobacco to address both research and cancer registry needs, and that a lawsuit may be necessary. DHS said they wanted to emphasize for the record that this problem is not a result of any action by DHS or the Secretary of the Health and Human Services Agency to take these funds from the RA, but rather it was action by DOF to make up a budget fund shortage. ACS said that they have for years tried to get additional state funds for the Cancer Registry and have not supported the taking of RA funds for this purpose. Comments indicated that there was strong support for a lawsuit to resolve this, and there was a discussion on the authority, role, or standing of TERO and the voluntary agencies in encouraging or initiating a lawsuit. The representatives of the voluntary agencies said they are well aware of this problem and have received copies of letters sent regarding this matter over the years. After further discussion on the matter, the Committee agreed to send a letter to the voluntary agencies saying this has been an ongoing issue that has grown in severity and is now at a critical juncture, and that it is the opinion of this body that there will be no resolution unless a lawsuit is filed. TRDRP will draft the letter

TRDRP said they had been invited to submit a proposal to administer the tobacco research program for the state of Florida. They expect to hear soon whether and when they shall negotiate terms of a contract. The state of Florida has appropriated almost as much as California for this purpose for next year.

8. PUBLIC QUESTIONS AND COMMENTS

Dr. Steve Hansen, representing the California Medical Association, commented on the legislative bill AB 384 that would ban smoking and sale of tobacco products in prisons. He said that the bill has passed out of the Senate Public Safety Committee with an amendment to include staff at prisons. He acknowledged that some prisons are already smoke free.

9. MEMBER DISCUSSION

The Chairperson said there will be a special meeting on July 19, 2004, halfway through the time period for the MP, for an introspective look at achieving its recommendations. In addition to reviewing the MP, the agenda will also include further discussion of the LLA funding formula and cessation issues.

In preparation for the meeting, the Committee members are to review the MP, review the LLA funding allocation, and review the summaries of the presentations on cessation. The Chairperson said he would meet with DHS to get the information related to the proposed change in the LLA funding formula. Ms. Traci Verardo said she would prepare summaries of the presentations on cessation.

The Chairperson said that Mr. Jon Lloyd would be resigning from state service on June 30, 2004. He wanted to recognize and thank Jon for the wonderful and professional work he has done for the tobacco control movement in the state and nation, and for the assistance he has given to TERO in particular.

NEXT MEETING DATES:

July 19, 2004, 10 a.m. to 4 p.m., Oakland, Special Meeting

August 31, 2004, 10 a.m. to 5 p.m., Sacramento, Regular Meeting

December 6, 2004, 10 a.m. to 5 p.m., Sacramento, Regular Meeting

The meeting was adjourned at 2:40 p.m.

ACTION ITEMS:

1. TEROC to send letters to UC Academic Senate and to the Regents of UC with copies to the UC Chancellor and UC President urging them to adopt policies to reject tobacco industry funding of research.
2. TEROC to send a letter to President Bush and Secretary Thompson thanking them for signing the FCTC treaty and asking the president to send it to the U.S. Senate for ratification.
3. TEROC to send letters to Senators Feinstein and Boxer urging them to support the ratification of FCTC.
4. TRDRP to draft and TEROC to send a letter to the voluntary agencies regarding the redirection of RA funds to the California Cancer Registry and indicate that it is the opinion of the Committee that a lawsuit is necessary to remedy this.

ENCLOSURES

1. Copy of *June 1, 2004 Environmental Developments*
2. Copy of *2004-05 Governor's Budget*
3. Copy of *Legislative Update – June 1, 2004*
4. Copy of *LLA PDA Funding Proposal*
5. Copy of *Three-Year Funding Comparison to Population-Based Formula*